

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON**

**ELISHA SOLANO, DENISE CONROY,**  
and **KATHLEEN ZACH**, *individually and*  
*on behalf of other customers,*

Plaintiffs,

v.

**THE KROGER CO.**, *dba Fred Meyer,*

Defendant.

Case No. 3:18-cv-01488-AR

**ORDER ADOPTING F&R**

Michael R. Fuller, OlsenDaines, US Bancorp Tower, 111 SW 5th Ave., Ste. 3150, Portland, OR 97204. Daniel Nichols, JurisLaw LLP, Three Centerpointe Drive, Ste. 160, Lake Oswego, OR 97035. Kelly D. Jones, Law Office of Kelly D. Jones, 819 SE Morrison St., Ste. 225, Portland, OR 97214. Young Walgenkim, Hanson & Walgenkim, LLC, 838 Commercial St. NE, Salem, OR 97301. Attorneys for Plaintiffs.

Jacob M. Harper, James H. Moon, and Peter Bae Davis Wright Tremaine, LLP, 865 South Figueroa St., Ste. 2400, Los Angeles, CA 90017. Kevin H. Kono, Davis Wright Tremaine, LLP, 560 SW 10th Ave., Ste. 700, Portland, OR 97205. Frederick B. Burnside, Davis Wright Tremaine, LLP, 920 5th Ave., Ste. 3300, Seattle, WA 98104. Attorneys for Defendant.

**IMMERGUT, District Judge.**

Before this Court is a Motion for Class Certification filed by Plaintiffs Elisha Solano, Denise Conroy, and Kathleen Zach, individually and on behalf of other class members, ECF 117, and a Motion to Deny Class Certification filed by Defendant Kroger Co. (Fred Meyer), ECF 113.

On July 16, 2024, Magistrate Judge Armistead issued his Findings and Recommendation (“F&R”). ECF 151. Judge Armistead recommends that this Court grant Plaintiffs’ Motion for Class Certification; appoint plaintiffs Solano, Conroy, and Zach as Class Representatives; appoint plaintiffs’ attorneys as Class Counsel; and deny Fred Meyer’s Motion to Deny Class Certification. *See id.* Defendant timely filed objections to Judge Armistead’s F&R on August 20, 2024 (“Objections”). ECF 157. Plaintiffs timely filed a response to Defendant’s objections on September 17, 2024 (“Resp.”). ECF 160.

After de novo review of the F&R, objections, and response, this Court adopts the F&R.

### **DISCUSSION**

Under the Federal Magistrates Act (“Act”), as amended, the court may “accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1)(C). If a party objects to a magistrate judge’s F&R, “the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made.” *Id.* But the court is not required to review, de novo or under any other standard, the factual or legal conclusions of the F&R to which no objections are addressed. *See Thomas v. Arn*, 474 U.S. 140, 149–50 (1985); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (en banc). Nevertheless, the Act “does not preclude further review by the district judge, sua sponte” whether de novo or under another standard. *Thomas*, 474 U.S. at 154.

This Court has reviewed de novo the portions of Judge Armistead’s F&R to which Defendant objected. This Court agrees with Judge Armistead’s analysis and ADOPTS the F&R, ECF 151, in full. Plaintiffs’ Motion for Class Certification, ECF 117 is GRANTED. Plaintiffs Solano, Conroy, and Zach are appointed as Class Representatives. Plaintiffs’ attorneys Michael

Fuller, Kelly D. Jones, Daniel J. Nichols, and Young Walgenkim are appointed as Class Counsel.  
Fred Meyer's Motion to Deny Class Certification, ECF 113, is DENIED.

**IT IS SO ORDERED.**

DATED this 27th day of September, 2024.

/s/ Karin J. Immergut  
Karin J. Immergut  
United States District Judge